

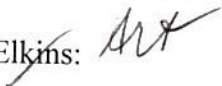


THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JUL - 7 2015

The Honorable Arthur A. Elkins Jr.
Inspector General
Office of Inspector General
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Mr. Elkins: 

I would like to reinforce our regular discussions on actions the U.S. Environmental Protection Agency is taking to support the Office of Inspector General in fulfilling its responsibilities under the Inspector General Act.

I sent in January a clear message to all EPA employees of my firm expectation that they report fraud, waste and abuse to the Office of Inspector General. I provided many examples of the types of conduct that should be reported, including serious employee misconduct, and provided contact information for OIG. I did that because I take seriously my responsibilities as Administrator to lead an efficient and effective agency, where waste, fraud and abuse is not tolerated and allegations of such behavior are promptly addressed. I rely on you and your office to conduct the necessary audits and investigations of our programs and operations to ensure that we maintain the highest standards of excellence at the EPA.

Indeed, I am pleased that we have been able to make tremendous progress on a number of fronts, including the recent development of a new and expedited process for OIG to timely share with relevant agency management information on certain types of employee misconduct cases. This effort will help facilitate appropriate action by EPA management when presented with allegations of employee misconduct without constraining further action by OIG or other law-enforcement entities. OIG and agency staff designed the process to remove informational impediments to management that will allow them to better supervise and, in appropriate circumstances, to discipline the agency's work force.

We also have worked hard to ensure that, with respect to actions under investigation by OIG, there are no such impediments to carrying out your duties under the Inspector General Act. As I have repeatedly stated, every office within the EPA is subject to appropriate oversight by OIG, and I will not tolerate any interference with OIG's work authorized under the Inspector General Act.

Our General Counsel met recently with your chief counsel to better ascertain whether there are actual instances in which individuals or agency programs are hampering your ability to conduct any audits or investigations within OIG's purview. No specific instances of any interference were identified. Should such information exist, I will provide the necessary instructions to address any interference or prohibitions. However, you continue to express concerns about the agency's Office of Homeland Security (OHS). While I can and will take action on the basis of actual problems, I remain concerned

about your continued focus on a program that, as I understand it, is being fully cooperative with any requests for information made by OIG in connection with its oversight responsibilities.

I have directed OHS to make available to you, for purposes of carrying out your duties under the Inspector General Act, all information within its possession. I have also rescinded the prior Memorandum of Understanding signed by OHS and the FBI to ensure that it not be raised as an obstacle to appropriate cooperation with OIG. This action was something you specifically requested on numerous occasions. To the extent that information you seek was provided to OHS by the FBI in connection with an FBI-led national-security investigation, I further understand that you, OHS and the FBI Counterintelligence Division have agreed upon full access dependent upon appropriate security clearances. Significantly, the sum total of national-security-related cases under investigation by the FBI for which such information might even be relevant is miniscule – perhaps as few as two or three cases – and I am not aware of any instances of lack of compliance with a proper OIG request for information. Should such an example exist, please bring it to my or the General Counsel's attention immediately.

While we continue to make significant progress in furthering cooperation and collaboration, you have suggested that a seven-day letter, which by law is reserved for “particularly serious or flagrant problems, abuses, or deficiencies,” may be forthcoming. I find this especially frustrating given the progress we have made and my repeated requests for any specific articulation of problems in the EPA’s programs or operations that may rise to such a level. If you have evidence or information to suggest that EPA staff generally or OHS specifically have not adhered to the many directives I have issued concerning your office’s functions and authorities, please let me know. But in the absence of that it is difficult to understand why additional steps are warranted.

With respect to matters involving national-security-related investigations, we fully recognize and support the FBI as the statutory lead. But I also understand that such matters may sometimes implicate serious employee misconduct and that OIG then has concurrent jurisdiction with the FBI and serves as the agency's lead investigator for the employee-misconduct matter. Though I do not believe this is in question, I have nevertheless asked my General Counsel to speak to OHS leadership to ensure that they continue to abide by my instructions regarding information access and that they take no action to interfere with or undermine OIG's status in cases of serious employee misconduct.

We have made enormous strides during the past year to ensure agency cooperation with your office and to make the EPA a truly high-performing organization. I fully expect that we will continue this trend and can instill the confidence in our work force that their work is valued and supported. I also have high expectations for the EPA's leadership and staff, and those include ensuring that OIG is able to carry out its lawful oversight functions. If anyone falls short, I want to know about it. I think we have taken the right steps to keep us on a path where I can lead the EPA, with the benefit of a valued OIG, to deliver on our responsibilities and our promises to the American people.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", with a large, sweeping flourish above it.

Gina McCarthy

cc: Avi Garbow